

---

**SUBSTITUTE SENATE BILL 5686**

---

**State of Washington**                      **63rd Legislature**                      **2013 Regular Session**

**By** Senate Commerce & Labor (originally sponsored by Senator King)

READ FIRST TIME 02/21/13.

1            AN ACT Relating to surveys used in prevailing wage determinations;  
2 amending RCW 39.04.350; adding new sections to chapter 39.12 RCW; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 39.12 RCW  
6 to read as follows:

7            The department of labor and industries must provide any current  
8 prevailing wage survey to each contractor renewing a contractor  
9 registration pursuant to chapter 18.27 RCW or renewing an electrical  
10 contractor license pursuant to chapter 19.28 RCW. For specialty and  
11 electrical contractors, the department may provide only those  
12 prevailing wage surveys where the trade or occupation subject to the  
13 survey is customarily associated with the specialty indicated on the  
14 contractor's registration.

15            NEW SECTION.    **Sec. 2.** A new section is added to chapter 39.12 RCW  
16 to read as follows:

17            A contractor cannot bid on any public works subject to prevailing  
18 wage requirements unless the contractor has submitted any applicable

1 prevailing wage survey to the department of labor and industries within  
2 sixty days of renewing a registration pursuant to chapter 18.27 RCW or  
3 an electrical contractor license pursuant to chapter 19.28 RCW. A  
4 prevailing wage survey is applicable if the contractor employs workers  
5 in the trade or occupation listed on the survey.

6 If a contractor fails to submit an applicable prevailing wage  
7 survey within sixty days of registration or license renewal, the  
8 contractor cannot bid on a public works project until the applicable  
9 surveys have been submitted to the department.

10 **Sec. 3.** RCW 39.04.350 and 2010 c 276 s 2 are each amended to read  
11 as follows:

12 (1) Before award of a public works contract, a bidder must meet the  
13 following responsibility criteria to be considered a responsible bidder  
14 and qualified to be awarded a public works project. The bidder must:

15 (a) At the time of bid submittal, have a certificate of  
16 registration in compliance with chapter 18.27 RCW;

17 (b) Have a current state unified business identifier number;

18 (c) If applicable, have industrial insurance coverage for the  
19 bidder's employees working in Washington as required in Title 51 RCW;  
20 an employment security department number as required in Title 50 RCW;  
21 and a state excise tax registration number as required in Title 82 RCW;

22 (d) Not be disqualified from bidding on any public works contract  
23 under RCW 39.06.010 (~~(e)~~), 39.12.065(3), or section 2 of this act;

24 (e) If bidding on a public works project subject to the  
25 apprenticeship utilization requirements in RCW 39.04.320, not have been  
26 found out of compliance by the Washington state apprenticeship and  
27 training council for working apprentices out of ratio, without  
28 appropriate supervision, or outside their approved work processes as  
29 outlined in their standards of apprenticeship under chapter 49.04 RCW  
30 for the one-year period immediately preceding the date of the bid  
31 solicitation; and

32 (f) Until December 31, 2013, not have violated RCW 39.04.370 more  
33 than one time as determined by the department of labor and industries.

34 (2) In addition to the bidder responsibility criteria in subsection  
35 (1) of this section, the state or municipality may adopt relevant  
36 supplemental criteria for determining bidder responsibility applicable  
37 to a particular project which the bidder must meet.

1 (a) Supplemental criteria for determining bidder responsibility,  
2 including the basis for evaluation and the deadline for appealing a  
3 determination that a bidder is not responsible, must be provided in the  
4 invitation to bid or bidding documents.

5 (b) In a timely manner before the bid submittal deadline, a  
6 potential bidder may request that the state or municipality modify the  
7 supplemental criteria. The state or municipality must evaluate the  
8 information submitted by the potential bidder and respond before the  
9 bid submittal deadline. If the evaluation results in a change of the  
10 criteria, the state or municipality must issue an addendum to the  
11 bidding documents identifying the new criteria.

12 (c) If the bidder fails to supply information requested concerning  
13 responsibility within the time and manner specified in the bid  
14 documents, the state or municipality may base its determination of  
15 responsibility upon any available information related to the  
16 supplemental criteria or may find the bidder not responsible.

17 (d) If the state or municipality determines a bidder to be not  
18 responsible, the state or municipality must provide, in writing, the  
19 reasons for the determination. The bidder may appeal the determination  
20 within the time period specified in the bidding documents by presenting  
21 additional information to the state or municipality. The state or  
22 municipality must consider the additional information before issuing  
23 its final determination. If the final determination affirms that the  
24 bidder is not responsible, the state or municipality may not execute a  
25 contract with any other bidder until two business days after the bidder  
26 determined to be not responsible has received the final determination.

27 (3) The capital projects advisory review board created in RCW  
28 39.10.220 shall develop suggested guidelines to assist the state and  
29 municipalities in developing supplemental bidder responsibility  
30 criteria. The guidelines must be posted on the board's web site.

31 NEW SECTION. **Sec. 4.** The department of labor and industries may  
32 adopt rules to implement this act.

--- END ---